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SUBJECT: FEMALE CANDIDATES COULD WIN MORE THAN 25 PERCENT  
OF SEATS DESPITE FAILURE OF PARLIAMENT TO LEGISLATE A QUOTA

Classified By: Acting Political Counselor Timothy Lenderking for reason  
s 1.4 (b) and (d)

¶1. (C) Summary: Despite confusion over the interpretation of the Provincial Election Law, and the failure to pass a late amendment to guarantee a 25 percent quota for women on each of the 14 provincial councils (PCs) to be elected in Iraq on January 31, the United Nations projects that new PCs could have more than 25 percent female representation. Female members of the Council of Representatives (CoR) have expressed their concern that the lack of a specific quota in the legislation for this election has set a precedent. The worry that it will be difficult to include such an article in laws that guide future elections, such as the one that could set new parameters for the CoR elections set to take place in late 2009. End Summary.

¶2. (C) The Provincial Election Law (PEL) that was passed in September 2009, has been interpreted by many Iraqis to guarantee that 25 percent of the seats in the new provincial councils will be filled by women. After extensive consultations with the UN and the International Foundation for Electoral Systems (IFES), a USAID funded contractor acting as technical advisor to the Iraqi Independent High Electoral Commission (IHEC), the IHEC acknowledged that the specific language in the law does not guarantee the 25 percent outcome. An amendment to the PEL that would have guaranteed the 25 percent quota was introduced in the CoR, but failed.

¶3. (C) The PEL states that, "the candidate who secures the highest number of votes within the list shall be deemed the winner and so on for the rest of candidates, and to have a woman at the end of all three winners regardless of male winners." Overly simple interpretations of this language led many to believe that the IHEC would move the highest vote-getting women up each list of winners, replacing men with more individual votes, until the PC reached 25 percent female representation. When presented with the complex algorithm that would be required to achieve this end, and realizing the displeasure that parties would express as they witnessed their candidates displaced, the IHEC decided to implement the law as drafted. IHEC Commissioners made it clear to the CoR that they are an implementing agency; the CoR would have to amend the law, rather than hope for IHEC to interpret what some argued is the spirit of the law. As stipulated in the law, after counting the votes each list of successful candidates must include a woman's name in every third place, and seats will be allocated from the top of the list. A party list winning six seats will place two women on the PC.

¶4. (C) Samira al Musawi (Shia independent), the head of the CoR Women, Family and Childhood Committee, told poloff that she submitted, on January 12, an amendment to the PEL that seeks to guarantee a minimum of 25 percent of seats for women in provincial, district, and sub-district councils. The CoR has failed to act on this proposed amendment in advance of the provincial elections. Al Musawi told poloff

that she would like support from the United Nations Assistance Mission in Iraq (UNAMI), and the international community in pressuring the CoR to pass the amendment.

¶15. (C) Al Musawi, and other prominent female politicians, highlight the fact that the existing election law maintains the possibility of fewer than 25percent of the PC seats being filled by women. With dozens of parties vying for the 57 seats on the Baghdad PC, she says, it is possible that many Qseats on the Baghdad PC, she says, it is possible that many seats will be won by small parties. These parties that win only one or two seats will not be obliged to seat a female candidate. (Comment: When confronted with this argument by poloff, UNAMI Election Officer Sandra Mitchell and IFES election advisor both disagreed. Through an implementing regulation, all parties were required to ensure that at least 25 percent of their candidates are women. Smaller parties, those with only two or three on their list, are required to have at least one woman candidate on their list. Equally important is the method the IHEC has adopted to award PC seats. After the election, the parties' lists of candidates will be rank-ordered, with top vote getters at the top. The top vote getting woman will be placed third on the re-ordered list, the second highest vote getting woman will be placed sixth, and so on. In effect, every third seat awarded to the party will go to a woman. Mitchell projects that the larger parties will gain the majority of seats, and that the requirement that they fill over 33 percent of their seats with women will more than compensate for the single-name parties with one male winner. End comment).

#### The Iraqi Constitution

¶16. (C) Article 49(4) of the Iraqi Constitution requires that elections for the CoR "aim to achieve a percentage of representation for women of not less than one-quarter of the members..." While the Constitution employs aspirational, rather than obligatory, terminology, various GoI entities, including the CoR, have interpreted this article as not only requiring 25 percent female representation at the national level, but at the provincial and local levels as well. Despite such voiced interpretations, however, the texts of the various election laws passed since the Constitution's adoption in 2005 believed the sincerity of such claims.

#### Comment

¶17. (C) The PEL is a complex law that attempts to accommodate many competing objectives. While the intent of the law, certainly in earlier versions, may have been to enshrine a quota of 25 percent female representation, the parliament has failed to guarantee such an outcome. The new PCs may still end up with 25 percent, or more, female representation, but the danger is that the aspirational spirit of the Constitution may be lost as a precedent for conducting future elections without a quota. Successfully reaching the 25 percent women's representation in the absence of a legislatively mandated quota may take the wind out of the sails of those who will continue to lobby for such legislation or an amendment to the Constitution.

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